IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.1748/02

M/s. Shabnam Electrodes

Versus

Rajasthan Financial Corporation & Anr.

DATE OF ORDER :: 11/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Miss Purnima Sharma for Mr. R.P. Garg, for petitioner
Mr. Rahul Kamwar for Mr. G.C. Garg, for respondents

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By the instant petition, petitioner has assailed the notice issued from the office of Corporation Ann.6 dated 28th January, 2002/11th February, 2002 for recovery of dues for total sum of Rs.4,65,025/- u/s.32-G of State Financial Corporation Act, 1951 [**"Act, 1951"**].

Petitioner was sanctioned loan of Rs.3,78,000/- by respondent-Corporation vide their sanctioned letter dated 19th October, 1987 for establishing a small scale unit for welding electrodes. As per terms of agreement, amount was disbursed to petitioner and by 10th February, 1988 a total sum of Rs.3,56,500/- was disbursed to him. Apart from the same, sum of Rs.58,000/- was also paid on 13th December, 1988 against subsidy in case of petitioner found eligible and entitled. The Corporation was the disbursing agency on behalf of Government and its receipt

has also been placed on record as Ann.R1/1. Since petitioner failed to repay the loan amount in terms of agreement, the Corporation after due compliance of provisions of Act, 1951 took possession of the unit on 29th January, 1992 and by open auction, it was sold for a sum of Rs.2,31,000/-. It is to be mentioned at this stage that before sale could be confirmed, a letter was sent from the office of Corporation Ann.R1/4 dated 19th January, 1996 stating inter alia that they may be able to auction the unit for a sum of Rs.2,31,000/-. If petitioner has any prospective buyer, he is free to come forward and payment of atleast 25% amount be deposited so that the same can be considered. But since petitioner did not turn up despite communication made to him vide Ann.R1/4 sale was confirmed and for balance amount demand was raised for recovery u/s.32-G of Act, 1951 vide Ann.6. Earlier the petitioner was requested to pay the outstanding amount of Rs.465025/-, but he has failed to do so.

Counsel for petitioner contends that after the possession was taken over by the unit, respondents were not justified to impose penal interest towards outstanding amount and such action of the respondents is in violation of condition of agreement and so also is not justified on their part to impose penal interest over the said amount.

Respondents in their reply have controverted this fact and in Para 10, it has been specifically averred that outstanding which was demanded in the year 2002 for a sum of Rs.465025/- interest has not been charged over the said amount after taking possession. Infact, interest has been charged by respondent-Corporation of due amount after adjusting the amount received to disbursing unit.

No rejoinder/counter has been filed by petitioner and apart from it, when the statement of account, which was placed on record, has not been controverted, the petitioner is otherwise not justified in raising the dispute/grievance. Nothing has been pointed out about the condition of agreement entered, it has now been violated by Corporation in computing the outstanding dues which was demanded in pursuance of Ann.6.

The very submission made by counsel for petitioner about charging interest in view of categorical statement made by respondents in Para 10 does not hold good.

It is also not the case of petitioner that he has ever paid the loan amount during intervening period and certainly in the absence whereof, it will carry interest which is in consonance with the terms of agreement. No other question has been raised in assailing the order impugned.

Consequently, I find no force in the writ petition, the same stands dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.